

FILED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FEB 26 2016

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

VICTOR HOLMES,

Petitioner,

v.

DWIGHT NEVEN, Warden,

Respondent.

No. 15-73349

ORDER

Before: LEAVY, FERNANDEZ, and RAWLINSON, Circuit Judges.

We treat petitioner's petition for writ of habeas corpus, transferred by the district court on October 30, 2015, as an application to file a second or successive 28 U.S.C. § 2254 habeas petition in the district court. We have considered this application and the application filed by petitioner on November 23, 2015. The applications for authorization to file a second or successive 28 U.S.C. § 2254 habeas corpus petition in the district court are denied. Petitioner has not made a prima facie showing under 28 U.S.C. § 2244(b)(2) that:

(A) the claim relies on a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable; or

(B)(i) the factual predicate for the claim could not have been discovered previously through the exercise of due diligence; and (ii) the facts underlying the claim, if proven and viewed in light of the evidence as a

whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.

Any pending motions are denied as moot.

No further filings will be entertained in this case.